

Article 25.  
Dispositions.

**§ 7B-2500. Purpose.**

The purpose of dispositions in juvenile actions is to design an appropriate plan to meet the needs of the juvenile and to achieve the objectives of the State in exercising jurisdiction, including the protection of the public. The court should develop a disposition in each case that:

- (1) Promotes public safety;
- (2) Emphasizes accountability and responsibility of both the parent, guardian, or custodian and the juvenile for the juvenile's conduct; and
- (3) Provides the appropriate consequences, treatment, training, and rehabilitation to assist the juvenile toward becoming a nonoffending, responsible, and productive member of the community. (1979, c. 815, s. 1; 1995 (Reg. Sess., 1996), c. 609, s. 1; 1998-202, s. 6.)

**§ 7B-2501. Dispositional hearing.**

(a) The dispositional hearing may be informal, and the court may consider written reports or other evidence concerning the needs of the juvenile. The court may consider any evidence, including hearsay evidence as defined in G.S. 8C-1, Rule 801, that the court finds to be relevant, reliable, and necessary to determine the needs of the juvenile and the most appropriate disposition.

(b) The juvenile and the juvenile's parent, guardian, or custodian shall have an opportunity to present evidence, and they may advise the court concerning the disposition they believe to be in the best interests of the juvenile.

(c) In choosing among statutorily permissible dispositions, the court shall select the most appropriate disposition both in terms of kind and duration for the delinquent juvenile. Within the guidelines set forth in G.S. 7B-2508, the court shall select a disposition that is designed to protect the public and to meet the needs and best interests of the juvenile, based upon:

- (1) The seriousness of the offense;
- (2) The need to hold the juvenile accountable;
- (3) The importance of protecting the public safety;
- (4) The degree of culpability indicated by the circumstances of the particular case; and
- (5) The rehabilitative and treatment needs of the juvenile indicated by a risk and needs assessment.

(d) The court may dismiss the case, or continue the case for no more than six months in order to allow the family an opportunity to meet the needs of the juvenile through more adequate home supervision, through placement in a private or specialized school or agency, through placement with a relative, or through some other plan approved by the court. (1979, c. 815, s. 1; 1981, c. 469, s. 18; 1998-202, s. 6; 2003-62, s. 5.)

**§ 7B-2502. Evaluation and treatment of undisciplined and delinquent juveniles.**

(a) In any case, the court may order that the juvenile be examined by a physician, psychiatrist, psychologist, or other qualified expert as may be needed for the court to determine the needs of the juvenile. In the case of a juvenile adjudicated delinquent for committing an offense that involves the possession, use, sale, or delivery of alcohol or a controlled substance, the court shall require the juvenile to be tested for the use of controlled substances or alcohol within 30 days of the adjudication. In the case of any juvenile adjudicated delinquent, the court may, if it deems

it necessary, require the juvenile to be tested for the use of controlled substances or alcohol. The results of these initial tests conducted pursuant to this subsection shall be used for evaluation and treatment purposes only. In placing a juvenile in out-of-home care under this section, the court shall also consider whether it is in the juvenile's best interest to remain in the juvenile's community of residence.

(b) Upon completion of the examination, the court shall conduct a hearing to determine whether the juvenile is in need of medical, surgical, psychiatric, psychological, or other evaluation or treatment and who should pay the cost of the evaluation or treatment. The county manager, or any other person who is designated by the chair of the board of county commissioners, of the county of the juvenile's residence shall be notified of the hearing, and allowed to be heard. If the court finds the juvenile to be in need of medical, surgical, psychiatric, psychological, or other evaluation or treatment, the court shall permit the parent, guardian, custodian, or other responsible persons to arrange for evaluation or treatment. If the parent, guardian, or custodian declines or is unable to make necessary arrangements, the court may order the needed evaluation or treatment, surgery, or care, and the court may order the parent to pay the cost of the care pursuant to Article 27 of this Chapter. If the court finds the parent is unable to pay the cost of evaluation or treatment, the court shall order the county to arrange for evaluation or treatment of the juvenile and to pay for the cost of the evaluation or treatment. The county department of social services shall recommend the facility that will provide the juvenile with evaluation or treatment.

(c) If the court believes, or if there is evidence presented to the effect that the juvenile is mentally ill or is developmentally disabled, the court shall refer the juvenile to the area mental health, developmental disabilities, and substance abuse services director for appropriate action. A juvenile shall not be committed directly to a State hospital or mental retardation center; and orders purporting to commit a juvenile directly to a State hospital or mental retardation center except for an examination to determine capacity to proceed shall be void and of no effect. The area mental health, developmental disabilities, and substance abuse director shall be responsible for arranging an interdisciplinary evaluation of the juvenile and mobilizing resources to meet the juvenile's needs. If institutionalization is determined to be the best service for the juvenile, admission shall be with the voluntary consent of the parent, guardian, or custodian. If the parent, guardian, or custodian refuses to consent to a mental hospital or retardation center admission after such institutionalization is recommended by the area mental health, developmental disabilities, and substance abuse director, the signature and consent of the court may be substituted for that purpose. In all cases in which a regional mental hospital refuses admission to a juvenile referred for admission by the court and an area mental health, developmental disabilities, and substance abuse director or discharges a juvenile previously admitted on court referral prior to completion of the juvenile's treatment, the hospital shall submit to the court a written report setting out the reasons for denial of admission or discharge and setting out the juvenile's diagnosis, indications of mental illness, indications of need for treatment, and a statement as to the location of any facility known to have a treatment program for the juvenile in question. (1979, c. 815, s. 1; 1981, c. 469, s. 19; 1985, c. 589, s. 5; c. 777, s. 1; 1985 (Reg. Sess., 1986), c. 863, s. 2; 1991, c. 636, s. 19(a); 1995 (Reg. Sess., 1996), c. 609, s. 3; 1997-516, s. 1A; 1998-202, s. 6; 1998-229, s. 6; 2002-164, s. 4.9.)

### **§ 7B-2503. Dispositional alternatives for undisciplined juveniles.**

The following alternatives for disposition shall be available to the court exercising jurisdiction over a juvenile who has been adjudicated undisciplined. In placing a juvenile in out-of-home care under this section, the court shall also consider whether it is in the

juvenile's best interest to remain in the juvenile's community of residence. The court may combine any of the applicable alternatives when the court finds it to be in the best interests of the juvenile:

- (1) In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:
  - a. Require that the juvenile be supervised in the juvenile's own home by a department of social services in the juvenile's county of residence, a juvenile court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
  - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
  - c. If the director of the department of social services has received notice and an opportunity to be heard, place the juvenile in the custody of a department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906.1.
- (2) Place the juvenile under the protective supervision of a juvenile court counselor for a period of up to three months, with an extension of an additional three months in the discretion of the court.
- (3) Excuse the juvenile from compliance with the compulsory school attendance law when the court finds that suitable alternative plans can be arranged by the family through other community resources for one of the following:
  - a. An education related to the needs or abilities of the juvenile including vocational education or special education;
  - b. A suitable plan of supervision or placement; or
  - c. Some other plan that the court finds to be in the best interests of the juvenile. (1979, c. 815, s. 1; 1981, c. 469, s. 19; 1985, c. 589, s. 5; c. 777, s. 1; 1985 (Reg. Sess., 1986), c. 863, s. 2; 1991, c. 636, s. 19(a); 1995 (Reg. Sess., 1996), c. 609, s. 3; 1997-516, s. 1A; 1998-202, s. 6; 1998-229, s. 6; 2001-208, s. 8; 2001-487, s. 101; 2001-490, s. 2.19; 2002-164, s. 4.10; 2009-311, s. 16; 2013-129, s. 39; 2017-161, s. 12.)

**§ 7B-2504. Conditions of protective supervision for undisciplined juveniles.**

The court may place a juvenile on protective supervision pursuant to G.S. 7B-2503 so that the juvenile court counselor may (i) assist the juvenile in securing social, medical, and educational services and (ii) visit and work with the family as a unit to ensure the juvenile is provided proper supervision and care. The court may impose any combination of the following conditions of protective supervision that are related to the needs of the juvenile, including:

- (1) That the juvenile shall remain on good behavior and not violate any laws;
- (2) That the juvenile attend school regularly;
- (3) That the juvenile maintain passing grades in up to four courses during each grading period and meet with the juvenile court counselor and a representative of the school to make a plan for how to maintain those passing grades;
- (4) That the juvenile not associate with specified persons or be in specified places;
- (5) That the juvenile abide by a prescribed curfew;
- (6) That the juvenile report to a juvenile court counselor as often as required by a juvenile court counselor;
- (7) That the juvenile be employed regularly if not attending school; and
- (8) That the juvenile satisfy any other conditions determined appropriate by the court. (1979, c. 815, s. 1; 1998-202, s. 6; 2001-490, s. 2.20.)

#### **§ 7B-2505. Violation of protective supervision by undisciplined juvenile.**

(a) On motion of the juvenile court counselor or the juvenile, or on the court's own motion, the court may review the progress of any juvenile on protective supervision at any time during the period of protective supervision. When the motion is filed during the period of protective supervision and either alleges a violation of protective supervision or seeks an extension of protective supervision as permitted by G.S. 7B-2503(2), the court's review may occur within a reasonable time after the period of protective supervision ends, and the court shall have jurisdiction to enter an order under this section. The conditions or duration of protective supervision may be modified only as provided in this Subchapter and only after notice and a hearing.

(b) If the court, after notice and a hearing, finds by the greater weight of the evidence that the juvenile has violated the conditions of protective supervision set by the court, the court may do one or more of the following:

- (1) Continue or modify the conditions of protective supervision.
- (2) Order any disposition authorized by G.S. 7B-2503.
- (3) Notwithstanding the time limitation in G.S. 7B-2503(2), extend the period of protective supervision for up to three months. (1998-202, s. 6; 2001-490, s. 2.21; 2012-172, s. 5.)

#### **§ 7B-2506. Dispositional alternatives for delinquent juveniles.**

The court exercising jurisdiction over a juvenile who has been adjudicated delinquent may use the following alternatives in accordance with the dispositional structure set forth in G.S. 7B-2508:

- (1) **(Effective until December 1, 2019)** In the case of any juvenile who needs more adequate care or supervision or who needs placement, the judge may:

- a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a juvenile court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
  - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
  - c. If the director of the county department of social services has received notice and an opportunity to be heard, place the juvenile in the custody of the department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906.1.
- (1) **(Effective December 1, 2019)** In the case of any juvenile under the age of 18 years who needs more adequate care or supervision or who needs placement, the judge may:
- a. Require that a juvenile be supervised in the juvenile's own home by the department of social services in the juvenile's county, a juvenile court counselor, or other personnel as may be available to the court, subject to conditions applicable to the parent, guardian, or custodian or the juvenile as the judge may specify; or
  - b. Place the juvenile in the custody of a parent, guardian, custodian, relative, private agency offering placement services, or some other suitable person; or
  - c. If the director of the county department of social services has received notice and an opportunity to be heard, place the juvenile in the custody of the department of social services in the county of the juvenile's residence, or in the case of a juvenile who has legal residence outside the State, in the physical custody of a department of social services in the county where the juvenile is found so that agency may return the juvenile to the responsible authorities in the juvenile's home state. An order placing a juvenile in the custody or placement responsibility of a county department of social services shall contain a finding that the juvenile's continuation in the juvenile's own home would be contrary to the juvenile's best interest. This placement shall be reviewed in accordance with G.S. 7B-906.1.
- (2) **(Effective until December 1, 2019)** Excuse the juvenile from compliance with the compulsory school attendance law when the court

- finds that suitable alternative plans can be arranged by the family through other community resources for one of the following:
- a. An education related to the needs or abilities of the juvenile including vocational education or special education;
  - b. A suitable plan of supervision or placement; or
  - c. Some other plan that the court finds to be in the best interests of the juvenile.
- (2) **(Effective December 1, 2019)** Excuse a juvenile under the age of 16 years from compliance with the compulsory school attendance law when the court finds that suitable alternative plans can be arranged by the family through other community resources for one of the following:
- a. An education related to the needs or abilities of the juvenile including vocational education or special education;
  - b. A suitable plan of supervision or placement; or
  - c. Some other plan that the court finds to be in the best interests of the juvenile.
- (3) Order the juvenile to cooperate with a community-based program, an intensive substance abuse treatment program, or a residential or nonresidential treatment program. Participation in the programs shall not exceed 12 months.
- (4) Require restitution, full or partial, up to five hundred dollars (\$500.00), payable within a 12-month period to any person who has suffered loss or damage as a result of the offense committed by the juvenile. The court may determine the amount, terms, and conditions of the restitution. If the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of restitution; however, the court shall not require the juvenile to make restitution if the juvenile satisfies the court that the juvenile does not have, and could not reasonably acquire, the means to make restitution.
- (5) Impose a fine related to the seriousness of the juvenile's offense. If the juvenile has the ability to pay the fine, it shall not exceed the maximum fine for the offense if committed by an adult.
- (6) Order the juvenile to perform up to 100 hours supervised community service consistent with the juvenile's age, skill, and ability, specifying the nature of the work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense and in no event may the obligation to work exceed 12 months.
- (7) Order the juvenile to participate in the victim-offender reconciliation program.
- (8) Place the juvenile on probation under the supervision of a juvenile court counselor, as specified in G.S. 7B-2510.
- (9) Order that the juvenile shall not be licensed to operate a motor vehicle in the State of North Carolina for as long as the court retains jurisdiction

over the juvenile or for any shorter period of time. The clerk of court shall notify the Division of Motor Vehicles of that order.

- (10) Impose a curfew upon the juvenile.
- (11) Order that the juvenile not associate with specified persons or be in specified places.
- (12) Impose confinement on an intermittent basis in an approved detention facility. Confinement shall be limited to not more than five 24-hour periods, the timing and imposition of which is determined by the court in its discretion.
- (13) Order the juvenile to cooperate with placement in a wilderness program.
- (14) Order the juvenile to cooperate with placement in a residential treatment facility, an intensive nonresidential treatment program, an intensive substance abuse program, or in a group home other than a multipurpose group home operated by a State agency.
- (15) Place the juvenile on intensive probation under the supervision of a juvenile court counselor.
- (16) Order the juvenile to cooperate with a supervised day program requiring the juvenile to be present at a specified place for all or part of every day or of certain days. In determining whether to order a juvenile to a particular supervised day program, the court shall consider the structure and operations of the program and whether that program will meet the needs of the juvenile. The court also may require the juvenile to comply with any other reasonable conditions specified in the dispositional order that are designed to facilitate supervision.
- (17) Order the juvenile to participate in a regimented training program.
- (18) Order the juvenile to submit to house arrest.
- (19) Suspend imposition of a more severe, statutorily permissible disposition with the provision that the juvenile meet certain conditions agreed to by the juvenile and specified in the dispositional order. The conditions shall not exceed the allowable dispositions for the level under which disposition is being imposed.
- (20) Order that the juvenile be confined in an approved juvenile detention facility for a term of up to 14 24-hour periods, which confinement shall not be imposed consecutively with intermittent confinement pursuant to subdivision (12) of this section at the same dispositional hearing. The timing and imposition of this confinement shall be determined by the court in its discretion.
- (21) Order the residential placement of a juvenile in a multipurpose group home operated by a State agency.
- (22) Require restitution of more than five hundred dollars (\$500.00), full or partial, payable within a 12-month period to any person who has suffered loss or damage as a result of an offense committed by the juvenile. The court may determine the amount, terms, and conditions of restitution. If

the juvenile participated with another person or persons, all participants should be jointly and severally responsible for the payment of the restitution; however, the court shall not require the juvenile to make restitution if the juvenile satisfies the court that the juvenile does not have, and could not reasonably acquire, the means to make restitution.

- (23) Order the juvenile to perform up to 200 hours supervised community service consistent with the juvenile's age, skill, and ability, specifying the nature of work and the number of hours required. The work shall be related to the seriousness of the juvenile's offense.
- (24) Commit the juvenile to the Division for placement in a youth development center in accordance with G.S. 7B-2513 for a period of not less than six months. (1979, c. 815, s. 1; 1981, c. 469, ss. 19, 20; 1985, c. 589, s. 5; c. 777, s. 1; 1985 (Reg. Sess., 1986), c. 863, s. 2; 1991, c. 353, s. 1; 636, s. 19(a); 1991 (Reg. Sess., 1992), c. 1030, s. 4; 1993, c. 369, s. 1; c. 462, s. 1; 1995 (Reg. Sess., 1996), c. 609, s. 3; 1997-516, s. 1A; 1998-202, s. 6; 1998-229, s. 6; 1999-444, s. 1; 2000-137, s. 3; 2001-95, s. 5; 2001-179, s. 2; 2001-208, s. 9; 2001-487, s. 101; 2001-490, s. 2.22; 2009-311, s. 17; 2011-145, s. 19.1(l); 2013-129, s. 40; 2015-58, s. 3.2; 2017-57, s. 16D.4(g); 2017-161, s. 13.)

**§ 7B-2507. (Effective until December 1, 2019) Delinquency history levels.**

(a) Generally. – The delinquency history level for a delinquent juvenile is determined by calculating the sum of the points assigned to each of the juvenile's prior adjudications and to the juvenile's probation status, if any, that the court finds to have been proved in accordance with this section. For the purposes of this section, a prior adjudication is an adjudication of an offense that occurs before the adjudication of the offense before the court.

(b) Points. – Points are assigned as follows:

- (1) For each prior adjudication of a Class A through E felony offense, 4 points.
- (2) For each prior adjudication of a Class F through I felony offense or Class A1 misdemeanor offense, 2 points.
- (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1 point.
- (4) If the juvenile was on probation at the time of offense, 2 points.

No points shall be assigned for a prior adjudication that a juvenile is in direct contempt of court or indirect contempt of court.

(c) Delinquency History Levels. – The delinquency history levels are:

- (1) Low – No more than 1 point.
- (2) Medium – At least 2, but not more than 3 points.
- (3) High – At least 4 points.

In determining the delinquency history level, the classification of a prior offense is the classification assigned to that offense at the time the juvenile committed the offense for which disposition is being ordered.

(d) Multiple Prior Adjudications Obtained in One Court Session. – For purposes of determining the delinquency history level, if a juvenile is adjudicated delinquent for more than one offense in a single session of district court, only the adjudication for the offense with the highest point total is used.

(e) Classification of Prior Adjudications From Other Jurisdictions. – Except as otherwise provided in this subsection, an adjudication occurring in a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor in North Carolina, the conviction is treated as that class of misdemeanor for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as either a misdemeanor or a felony in the other jurisdiction is substantially similar to an offense in North Carolina that is classified as a Class I felony or higher, the conviction is treated as that class of felony for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as a misdemeanor in the other jurisdiction is substantially similar to an offense classified as a Class A1 misdemeanor in North Carolina, the adjudication is treated as a Class A1 misdemeanor for assigning delinquency history level points.

(f) Proof of Prior Adjudications. – A prior adjudication shall be proved by any of the following methods:

- (1) Stipulation of the parties.
- (2) An original or copy of the court record of the prior adjudication.
- (3) A copy of records maintained by the Department of Public Safety or by the Division.
- (4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior adjudication exists and that the juvenile before the court is the same person as the juvenile named in the prior adjudication. The original or a copy of the court records or a copy of the records maintained by the Department of Public Safety or of the Division, bearing the same name as that by which the juvenile is charged, is prima facie evidence that the juvenile named is the same person as the juvenile before the court, and that the facts set out in the record are true. For purposes of this subsection, "a copy" includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to the court the juvenile's full record. Evidence presented by either party at trial may be utilized to prove prior adjudications. If asked by the juvenile, the prosecutor shall furnish the juvenile's prior adjudications to the juvenile within a reasonable time sufficient to allow the juvenile to determine if the record

available to the prosecutor is accurate. (1998-202, s. 6; 2000-137, s. 3; 2007-168, s. 5; 2011-145, s. 19.1(l); 2014-100, s. 17.1(q); 2015-58, s. 2.3.)

**§ 7B-2507. (Effective December 1, 2019) Delinquency history levels.**

(a) Generally. – The delinquency history level for a delinquent juvenile is determined by calculating the sum of the points assigned to each of the juvenile's prior adjudications or convictions and to the juvenile's probation status, if any, that the court finds to have been proved in accordance with this section. For the purposes of this section, a prior adjudication is an adjudication of an offense that occurs before the adjudication of the offense before the court.

(b) Points. – Points are assigned as follows:

- (1) For each prior adjudication of a Class A through E felony offense, 4 points.
- (2) For each prior adjudication of a Class F through I felony offense or Class A1 misdemeanor offense, 2 points.
- (2a) For each prior conviction of a Class A through E felony offense, 4 points.
- (2b) For each prior conviction of a Class F through I felony or Class A1 misdemeanor offense, excluding conviction of the motor vehicle laws, 2 points.
- (2c) For each prior misdemeanor conviction of impaired driving (G.S. 20-138.1), impaired driving in a commercial vehicle (G.S. 20-138.2), and misdemeanor death by vehicle (G.S. 20-141.4(a2)), 2 points.
- (3) For each prior adjudication of a Class 1, 2, or 3 misdemeanor offense, 1 point.
- (3a) For each prior conviction of a Class 1, 2, or 3 misdemeanor offense, excluding conviction for violation of the motor vehicle laws, 1 point.
- (4) If the juvenile was on probation at the time of offense, 2 points.

No points shall be assigned for a prior adjudication that a juvenile is in direct contempt of court or indirect contempt of court.

(c) Delinquency History Levels. – The delinquency history levels are:

- (1) Low – No more than 1 point.
- (2) Medium – At least 2, but not more than 3 points.
- (3) High – At least 4 points.

In determining the delinquency history level, the classification of a prior offense is the classification assigned to that offense at the time the juvenile committed the offense for which disposition is being ordered.

(d) Multiple Prior Adjudications or Convictions Obtained in One Court Session. – For purposes of determining the delinquency history level, if a juvenile is adjudicated delinquent or convicted for more than one offense in a single session of district court or more than one offense in a single superior court during one calendar week, only the adjudication or conviction for the offense with the highest point total is used.

(e) **Classification of Prior Adjudications or Convictions From Other Jurisdictions.** – Except as otherwise provided in this subsection, an adjudication or conviction occurring in a jurisdiction other than North Carolina is classified as a Class I felony if the jurisdiction in which the offense occurred classifies the offense as a felony, or is classified as a Class 3 misdemeanor if the jurisdiction in which the offense occurred classifies the offense as a misdemeanor. If the juvenile proves by the preponderance of the evidence that an offense classified as a felony in the other jurisdiction is substantially similar to an offense that is a misdemeanor in North Carolina, the adjudication or conviction is treated as that class of misdemeanor for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as either a misdemeanor or a felony in the other jurisdiction is substantially similar to an offense in North Carolina that is classified as a Class I felony or higher, the adjudication or conviction is treated as that class of felony for assigning delinquency history level points. If the State proves by the preponderance of the evidence that an offense classified as a misdemeanor in the other jurisdiction is substantially similar to an offense classified as a Class A1 misdemeanor in North Carolina, the adjudication or conviction is treated as a Class A1 misdemeanor for assigning delinquency history level points.

(f) **Proof of Prior Adjudications or Convictions.** – A prior adjudication or conviction shall be proved by any of the following methods:

- (1) Stipulation of the parties.
- (2) An original or copy of the court record of the prior adjudication or conviction.
- (3) A copy of records maintained by the Department of Public Safety or by the Division.
- (4) Any other method found by the court to be reliable.

The State bears the burden of proving, by a preponderance of the evidence, that a prior adjudication or conviction exists and that the juvenile before the court is the same person as the juvenile named in the prior adjudication or conviction. The original or a copy of the court records or a copy of the records maintained by the Department of Public Safety or of the Division, bearing the same name as that by which the juvenile is charged, is prima facie evidence that the juvenile named is the same person as the juvenile before the court, and that the facts set out in the record are true. For purposes of this subsection, "a copy" includes a paper writing containing a reproduction of a record maintained electronically on a computer or other data processing equipment, and a document produced by a facsimile machine. The prosecutor shall make all feasible efforts to obtain and present to the court the juvenile's full record. Evidence presented by either party at trial may be utilized to prove prior adjudications or convictions. If asked by the juvenile, the prosecutor shall furnish the juvenile's prior adjudications or convictions to the juvenile within a reasonable time sufficient to allow the juvenile to determine if the record available to the prosecutor is accurate. (1998-202, s. 6; 2000-137, s. 3; 2007-168, s. 5; 2011-145, s. 19.1(l); 2014-100, s. 17.1(q); 2015-58, s. 2.3; 2017-57, s. 16D.4(h).)

**§ 7B-2508. Dispositional limits for each class of offense and delinquency history level.**

- (a) **Offense Classification.** – The offense classifications are as follows:
- (1) Violent – Adjudication of a Class A through E felony offense;

- (2) Serious – Adjudication of a Class F through I felony offense or a Class A1 misdemeanor;
- (3) Minor – Adjudication of a Class 1, 2, or 3 misdemeanor or adjudication of indirect contempt by a juvenile.

(b) Delinquency History Levels. – A delinquency history level shall be determined for each delinquent juvenile as provided in G.S. 7B-2507.

(c) Level 1 – Community Disposition. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 1 disposition may provide for evaluation and treatment under G.S. 7B-2502 and for any of the dispositional alternatives contained in subdivisions (1) through (13) and (16) of G.S. 7B-2506. In determining which dispositional alternative is appropriate, the court shall consider the needs of the juvenile as indicated by the risk and needs assessment contained in the predisposition report, the appropriate community resources available to meet those needs, and the protection of the public.

(d) Level 2 – Intermediate Disposition. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 2 disposition may provide for evaluation and treatment under G.S. 7B-2502 and for any of the dispositional alternatives contained in subdivisions (1) through (23) of G.S. 7B-2506, but shall provide for at least one of the intermediate dispositions authorized in subdivisions (13) through (23) of G.S. 7B-2506. However, notwithstanding any other provision of this section, a court may impose a Level 3 disposition if the juvenile has previously received a Level 3 disposition in a prior juvenile action. In determining which dispositional alternative is appropriate, the court shall consider the needs of the juvenile as indicated by the risk and needs assessment contained in the predisposition report, the appropriate community resources available to meet those needs, and the protection of the public.

(e) Level 3 – Commitment. – A court exercising jurisdiction over a juvenile who has been adjudicated delinquent and for whom the dispositional chart in subsection (f) of this section prescribes a Level 3 disposition shall commit the juvenile to the Division for placement in a youth development center in accordance with G.S. 7B-2506(24). However, a court may impose a Level 2 disposition rather than a Level 3 disposition if the court submits written findings on the record that substantiate extraordinary needs on the part of the offending juvenile.

(f) Dispositions for Each Class of Offense and Delinquency History Level; Disposition Chart Described. – The authorized disposition for each class of offense and delinquency history level is as specified in the chart below. Delinquency history levels are indicated horizontally on the top of the chart. Classes of offense are indicated vertically on the left side of the chart. Each cell on the chart indicates which of the dispositional levels described in subsections (c) through (e) of this section are prescribed for that combination of offense classification and delinquency history level:

DELINQUENCY HISTORY

OFFENSE

	LOW	MEDIUM	HIGH
VIOLENT	Level 2 or 3	Level 3	Level 3
SERIOUS	Level 1 or 2	Level 2	Level 2 or 3
MINOR	Level 1	Level 1 or 2	Level 2.

(g) Notwithstanding subsection (f) of this section, a juvenile who has been adjudicated for a minor offense may be committed to a Level 3 disposition if the juvenile has been adjudicated of four or more prior offenses. For purposes of determining the number of prior offenses under this subsection, each successive offense is one that was committed after adjudication of the preceding offense.

(g1) **(Effective December 1, 2019)** Notwithstanding subsection (f) of this section, if a juvenile is adjudicated for an offense that the court finds was committed as part of criminal gang activity as defined in G.S. 7B-2508.1, the juvenile shall receive a disposition one level higher than would otherwise be provided for the class of offense and delinquency history level.

(h) If a juvenile is adjudicated of more than one offense during a session of juvenile court, the court shall consolidate the offenses for disposition and impose a single disposition for the consolidated offenses. The disposition shall be specified for the class of offense and delinquency history level of the most serious offense. (1998-202, s. 6; 2000-137, s. 3; 2001-95, s. 5; 2001-179, s. 1; 2007-168, s. 6; 2011-145, s. 19.1(l); 2017-57, s. 16D.4(gg); 2017-197, s. 5.4.)

**§ 7B-2508.1. (Effective December 1, 2019) Criminal gang activity.**

The following definitions apply in this Article:

- (1) Criminal gang. – Any ongoing organization, association, or group of three or more persons, whether formal or informal, that (i) has as one of its primary activities the commission of criminal or delinquent acts and (ii) shares a common name, identification, signs, symbols, tattoos, graffiti, attire, or other distinguishing characteristics, including common activities, customs, or behaviors. The term shall not include three or more persons associated in fact, whether formal or informal, who are not engaged in criminal gang activity.
- (2) Criminal gang activity. – The commission of, attempted commission of, or solicitation, coercion, or intimidation of another person to commit (i) any offense under Article 5 of Chapter 90 of the General Statutes or (ii) any offense under Chapter 14 of the General Statutes except Article 9, 22A, 40, 46, or 59 thereof, and further excepting G.S. 14-82, 14-145, 14-183, 14-184, 14-186, 14-190.9, 14-247, 14-248, or 14-313 thereof, and either of the following conditions is met:
  - a. The offense is committed with the intent to benefit, promote, or further the interests of a criminal gang or for the purposes of increasing a person's own standing or position within a criminal gang.
  - b. The participants in the offense are identified as criminal gang members acting individually or collectively to further any criminal purpose of a criminal gang.

- (3) Criminal gang member. – Any person who meets three or more of the following criteria:
- a. The person admits to being a member of a criminal gang.
  - b. The person is identified as a criminal gang member by a reliable source, including a parent or a guardian.
  - c. The person has been previously involved in criminal gang activity.
  - d. The person has adopted symbols, hand signs, or graffiti associated with a criminal gang.
  - e. The person has adopted the display of colors or the style of dress associated with a criminal gang.
  - f. The person is in possession of or linked to a criminal gang by physical evidence, including photographs, ledgers, rosters, written or electronic communications, or membership documents.
  - g. The person has tattoos or markings associated with a criminal gang.
  - h. The person has adopted language or terminology associated with a criminal gang.
  - i. The person appears in any form of social media to promote a criminal gang. (2017-57, s. 16D.4(hh); 2017-197, s. 5.4.)

**§ 7B-2509. Registration of certain delinquent juveniles.**

In any case in which a juvenile, who was at least 11 years of age at the time of the offense, is adjudicated delinquent for committing a violation of G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.21 (first-degree forcible rape), G.S. 14-27.22 (second-degree forcible rape), G.S. 14-27.24 (first-degree statutory rape), G.S. 14-27.26 (first-degree forcible sexual offense), G.S. 14-27.27 (second-degree forcible sexual offense), or G.S. 14-27.29 (first-degree statutory sexual offense), the judge, upon a finding that the juvenile is a danger to the community, may order that the juvenile register in accordance with Part 4 of Article 27A of Chapter 14 of the General Statutes. (1997-516, s. 1A; 1998-202, s. 11; 2015-181, s. 26.)

**§ 7B-2510. Conditions of probation; violation of probation.**

(a) In any case where a juvenile is placed on probation pursuant to G.S. 7B-2506(8), the juvenile court counselor shall have the authority to visit the juvenile where the juvenile resides. The court may impose conditions of probation that are related to the needs of the juvenile and that are reasonably necessary to ensure that the juvenile will lead a law-abiding life, including:

- (1) That the juvenile shall remain on good behavior.
- (2) That the juvenile shall not violate any laws.
- (3) That the juvenile shall not violate any reasonable and lawful rules of a parent, guardian, or custodian.
- (4) That the juvenile attend school regularly.
- (5) That the juvenile maintain passing grades in up to four courses during each grading period and meet with the juvenile court counselor and a

representative of the school to make a plan for how to maintain those passing grades.

- (6) That the juvenile not associate with specified persons or be in specified places.
- (7) That the juvenile:
  - a. Refrain from use or possession of any controlled substance included in any schedule of Article 5 of Chapter 90 of the General Statutes, the Controlled Substances Act;
  - b. Refrain from use or possession of any alcoholic beverage regulated under Chapter 18B of the General Statutes; and
  - c. Submit to random drug testing.
- (8) That the juvenile abide by a prescribed curfew.
- (9) That the juvenile submit to a warrantless search at reasonable times.
- (10) That the juvenile possess no firearm, explosive device, or other deadly weapon.
- (11) That the juvenile report to a juvenile court counselor as often as required by the juvenile court counselor.
- (12) That the juvenile make specified financial restitution or pay a fine in accordance with G.S. 7B-2506(4), (5), and (22).
- (13) That the juvenile be employed regularly if not attending school.
- (14) That the juvenile satisfy any other conditions determined appropriate by the court.

(b) In addition to the regular conditions of probation specified in subsection (a) of this section, the court may, at a dispositional hearing or any subsequent hearing, order the juvenile to comply, if directed to comply by the chief court counselor, with one or more of the following conditions:

- (1) Perform up to 20 hours of community service;
- (2) Submit to substance abuse monitoring and treatment;
- (3) Participate in a life skills or an educational skills program administered by the Division;
- (4) Cooperate with electronic monitoring; and
- (5) Cooperate with intensive supervision.

However, the court shall not give the chief court counselor discretion to impose the conditions of either subsection (4) or (5) of this section unless the juvenile is subject to Level 2 dispositions pursuant to G.S. 7B-2508 or subsection (d) of this section.

(c) An order of probation shall remain in force for a period not to exceed one year from the date entered. Prior to expiration of an order of probation, the court may extend it for an additional period of one year after notice and a hearing, if the court finds that the extension is necessary to protect the community or to safeguard the welfare of the juvenile. At the discretion of the court, the hearing to determine to extend probation may occur after the expiration of an order of probation at the next regularly scheduled court date or if the juvenile fails to appear in court.

(d) On motion of the juvenile court counselor or the juvenile, or on the court's own motion, the court may review the progress of any juvenile on probation at any time during

the period of probation or at the end of probation. The conditions or duration of probation may be modified only as provided in this Subchapter and only after notice and a hearing.

(e) If the court, after notice and a hearing, finds by the greater weight of the evidence that the juvenile has violated the conditions of probation set by the court, the court may continue the original conditions of probation, modify the conditions of probation, or, except as provided in subsection (f) of this section, order a new disposition. In the court's discretion, the court may order a new disposition at the next higher level on the disposition chart or order a term of confinement in a secure juvenile detention facility for up to twice the term authorized by G.S. 7B-2508, in addition to any other Level 2 dispositional option.

(f) A court shall not order a Level 3 disposition for violation of the conditions of probation by a juvenile adjudicated delinquent for an offense classified as minor under G.S. 7B-2508. (1979, c. 815, s. 1; 1981, c. 469, s. 20; 1991, c. 353, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 4; 1993, c. 369, s. 1; c. 462, s. 1; 1998-202, s. 6; 2000-137, s. 3; 2001-490, ss. 2.23, 2.24; 2011-145, s. 19.1(l); 2015-58, s. 2.4.)

#### **§ 7B-2511. Termination of probation.**

At the end of or at any time during probation, the court may terminate probation by written order upon finding that there is no further need for supervision. The finding and order terminating probation may be entered in chambers in the absence of the juvenile and may be based on a report from the juvenile court counselor or, at the election of the court, the order may be entered with the juvenile present after notice and a hearing. (1979, c. 815, s. 1; 1998-202, s. 6; 2001-490, s. 2.25.)

#### **§ 7B-2512. Dispositional order.**

(a) The dispositional order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The court shall state with particularity, both orally and in the written order of disposition, the precise terms of the disposition including the kind, duration, and the person who is responsible for carrying out the disposition and the person or agency in whom custody is vested.

(b) The court shall include information at the time of issuing the dispositional order, either orally in court or in writing, on the expunction of juvenile records as provided for in G.S. 7B-3200 that are applicable to the dispositional order. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 10; 1991, c. 434, s. 1; 1997-390, s. 8; 1998-202, s. 6; 1998-229, s. 7; 2015-58, s. 2.5.)

#### **§ 7B-2513. Commitment of delinquent juvenile to Division.**

(a) **(Effective until December 1, 2019)** Pursuant to G.S. 7B-2506 and G.S. 7B-2508, the court may commit a delinquent juvenile who is at least 10 years of age to the Division for placement in a youth development center. Commitment shall be for an indefinite term of at least six months. In no event shall the term exceed:

- (1) The twenty-first birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, first-degree forcible sexual offense pursuant to G.S. 14-27.26, or

- first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult;
- (2) The nineteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subdivision (1) of this subsection; or
  - (3) The eighteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

No juvenile shall be committed to a youth development center beyond the minimum six-month commitment for a period of time in excess of the maximum term of imprisonment for which an adult in prior record level VI for felonies or in prior conviction level III for misdemeanors could be sentenced for the same offense, except when the Division pursuant to G.S. 7B-2515 determines that the juvenile's commitment needs to be continued for an additional period of time to continue care or treatment under the plan of care or treatment developed under subsection (f) of this section. At the time of commitment to a youth development center, the court shall determine the maximum period of time the juvenile may remain committed before a determination must be made by the Division pursuant to G.S. 7B-2515 and shall notify the juvenile of that determination.

(a) **(Effective December 1, 2019)** Pursuant to G.S. 7B-2506 and G.S. 7B-2508, the court may commit a delinquent juvenile who is at least 10 years of age to the Division for placement in a youth development center. Commitment shall be for an indefinite term of at least six months.

(a1) For an offense the juvenile committed prior to reaching the age of 16 years, the term shall not exceed:

- (1) The twenty-first birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, first-degree forcible sexual offense pursuant to G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult;
- (2) The nineteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in subdivision (1) of this subsection; or
- (3) The eighteenth birthday of the juvenile if the juvenile has been committed to the Division for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(a2) **(Effective December 1, 2019)** For an offense the juvenile committed while the juvenile was at least 16 years of age but less than 17 years of age, the term shall not exceed the juvenile's nineteenth birthday.

(a3) **(Effective December 1, 2019)** For an offense the juvenile committed while the juvenile was at least 17 years of age, the term shall not exceed the juvenile's twentieth birthday.

(a4) **(Effective December 1, 2019)** No juvenile shall be committed to a youth development center beyond the minimum six-month commitment for a period of time in excess of the maximum term of imprisonment for which an adult in prior record level VI for felonies or in prior conviction level III for misdemeanors could be sentenced for the same offense, except when the Division pursuant to G.S. 7B-2515 determines that the juvenile's commitment needs to be continued for an additional period of time to continue care or treatment under the plan of care or treatment developed under subsection (f) of this section. At the time of commitment to a youth development center, the court shall determine the maximum period of time the juvenile may remain committed before a determination must be made by the Division pursuant to G.S. 7B-2515 and shall notify the juvenile of that determination.

(b) The court may commit a juvenile to a definite term of not less than six months and not more than two years if the court finds that the juvenile is 14 years of age or older, has been previously adjudicated delinquent for two or more felony offenses, and has been previously committed to a youth development center.

(c) The chief court counselor shall have the responsibility for transporting the juvenile to the youth development center designated by the Division. The juvenile shall be accompanied to the youth development center by a person of the same sex.

(d) The chief court counselor shall ensure that the records requested by the Division accompany the juvenile upon transportation for admittance to a youth development center or, if not obtainable at the time of admission, are sent to the youth development center within 15 days of the admission. If records requested by the Division for admission do not exist, to the best knowledge of the chief court counselor, the chief court counselor shall so stipulate in writing to the youth development center. If such records do exist, but the chief court counselor is unable to obtain copies of them, a district court may order that the records from public agencies be made available to the youth development center. Records that are confidential by law shall remain confidential and the Division shall be bound by the specific laws governing the confidentiality of these records. All records shall be used in a manner consistent with the best interests of the juvenile.

(e) A commitment order accompanied by information requested by the Division shall be forwarded to the Division. The Division shall place the juvenile in the youth development center that would best provide for the juvenile's needs and shall notify the committing court. The Division may assign a juvenile committed for delinquency to any institution of the Division or licensed by the Division, which program is appropriate to the needs of the juvenile.

The Division, after assessment of the juvenile, may provide commitment services to the juvenile in a program not located in a youth development center or detention facility. If the Division recommends that commitment services for the juvenile are to be provided in a setting that is not located in a youth development center or detention facility, the Division shall file a motion, along with information about the recommended services for the juvenile, with the committing court prior to placing the juvenile in the identified commitment program. The Division shall send notice of the motion to the District Attorney, the juvenile, and the juvenile's attorney. Upon receipt of the motion filed by the Division,

the court may enter an order without the appearance of witnesses and without hearing if the court determines that the identified commitment program is appropriate and a hearing is not necessary. The court must hold a hearing if the juvenile or the juvenile's attorney requests a hearing. If the court notifies the Division of its intent to hold a hearing, the date for that hearing shall be set by the court and the Division shall place the juvenile in a youth development center or detention facility until the determination of the court at that hearing.

(f) When the court commits a juvenile to the Division for placement in a youth development center, the Division shall prepare a plan for care or treatment within 30 days after assuming custody of the juvenile.

(g) Commitment of a juvenile to the Division for placement in a youth development center does not terminate the court's continuing jurisdiction over the juvenile and the juvenile's parent, guardian, or custodian. Commitment of a juvenile to the Division for placement in a youth development center transfers only physical custody of the juvenile. Legal custody remains with the parent, guardian, custodian, agency, or institution in whom it was vested.

(h) Pending placement of a juvenile with the Division, the court may house a juvenile who has been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult in a holdover facility up to 72 hours if the court, based on the information provided by the juvenile court counselor, determines that no acceptable alternative placement is available and the protection of the public requires that the juvenile be housed in a holdover facility.

(i) A juvenile who is committed to the Division for placement in a youth development center shall be tested for the use of controlled substances or alcohol. The results of this initial test shall be incorporated into the plan of care as provided in subsection (f) of this section and used for evaluation and treatment purposes only.

(j) When a juvenile is committed to the Division for placement in a youth development center for an offense that would have been a Class A or B1 felony if committed by an adult, the chief court counselor shall notify the victim and members of the victim's immediate family that the victim, or the victim's immediate family members may request in writing to be notified in advance of the juvenile's scheduled release date in accordance with G.S. 7B-2514(d). (1979, c. 815, s. 1; 1983, c. 133, s. 2; 1987, c. 100; c. 372; 1991, c. 434, ss. 2, 3; 1995 (Reg. Sess., 1996), c. 609, s. 2; 1997-443, s. 11A.118(a); 1998-202, s. 6; 1999-423, s. 1; 2000-137, s. 3; 2001-95, s. 5; 2001-490, s. 2.26; 2003-53, s. 1; 2011-145, s. 19.1(l); 2015-181, s. 27; 2017-57, s. 16D.4(i).)

#### **§ 7B-2514. Post-release supervision planning; release.**

(a) The Division shall be responsible for evaluation of the progress of each juvenile at least once every six months as long as the juvenile remains in the care of the Division. Any determination that the juvenile should remain in the care of the Division for an additional period of time shall be based on the Division's determination that the juvenile requires additional treatment or rehabilitation pursuant to G.S. 7B-2515. If the Division determines that a juvenile is ready for release, the Division shall initiate a post-release

supervision planning process. The post-release supervision planning process shall be defined by rules and regulations of the Division, but shall include the following:

- (1) Written notification shall be given to the court that ordered commitment.
  - (2) A post-release supervision planning conference shall be held involving as many as possible of the following: the juvenile, the juvenile's parent, guardian, or custodian, juvenile court counselors who have supervised the juvenile on probation or will supervise the juvenile on post-release supervision, and staff of the facility that found the juvenile ready for release. The planning conference shall include personal contact and evaluation rather than telephonic notification.
  - (3) The planning conference participants shall consider, based on the individual needs of the juvenile and pursuant to rules adopted by the Division, placement of the juvenile in any program under the auspices of the Division, including the juvenile court services programs that, in the judgment of the Division, would be appropriate transitional placement, pending release under G.S. 7B-2513.
- (b) The Division shall develop the plan in writing and base the terms on the needs of the juvenile and the protection of the public. Every plan shall require the juvenile to complete at least 90 days, but not more than one year, of post-release supervision.

(c) The Division shall release a juvenile under a plan of post-release supervision at least 90 days prior to:

- (1) Completion of the juvenile's definite term of commitment; or
- (2) The juvenile's twenty-first birthday if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, first-degree forcible sexual offense pursuant to G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult.
- (3) The juvenile's nineteenth birthday if the juvenile has been committed to the Division for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in G.S. 7B-1602(a).
- (4) The juvenile's eighteenth birthday if the juvenile has been committed to the Division for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(d) Notwithstanding Articles 30 and 31 of Subchapter III of this Chapter, at least 45 days before releasing to post-release supervision a juvenile who was committed for a Class A or B1 felony, the Division shall notify, by first-class mail at the last known address:

- (1) The juvenile;
  - (2) The juvenile's parent, guardian, or custodian;
  - (3) The district attorney of the district where the juvenile was adjudicated;
  - (4) The head of the enforcement agency that took the juvenile into custody;
- and

- (5) The victim and any of the victim's immediate family members who have requested in writing to be notified.

The notification shall include only the juvenile's name, offense, date of commitment, and date proposed for release. A copy of the notice shall be sent to the appropriate clerk of superior court for placement in the juvenile's court file.

(e) The Division may release a juvenile under an indefinite commitment to post-release supervision only after the juvenile has been committed to the Division for placement in a youth development center for a period of at least six months.

(f) A juvenile committed to the Division for placement in a youth development center for a definite term shall receive credit toward that term for the time the juvenile spends on post-release supervision.

(g) A juvenile on post-release supervision shall be supervised by a juvenile court counselor. Post-release supervision shall be terminated by order of the court. (1979, c. 815, s. 1; 1983, c. 133, s. 1; c. 276, s. 1; 1989, c. 235; 1996, 2nd Ex. Sess., c. 18, s. 23.2(e); 1998-202, s. 6; 2000-137, s. 3; 2001-95, s. 5; 2001-490, ss. 2.27, 2.28; 2011-145, s. 19(1); 2015-181, s. 28.)

**§ 7B-2515. (Effective until December 1, 2019) Notification of extended commitment; plan of treatment.**

(a) In determining whether a juvenile should be released before the juvenile's 18th birthday, the Division shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Division does not intend to release the juvenile prior to the juvenile's eighteenth birthday, or if the Division determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2513(a), the Division shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Division, the basis for extending the commitment period, and the plan for future care or treatment.

(b) The Division shall modify the plan of care or treatment developed pursuant to G.S. 7B-2513(f) to specify (i) the specific goals and outcomes that require additional time for care or treatment of the juvenile; (ii) the specific course of treatment or care that will be implemented to achieve the established goals and outcomes; and (iii) the efforts that will be taken to assist the juvenile's family in creating an environment that will increase the likelihood that the efforts to treat and rehabilitate the juvenile will be successful upon release. If appropriate, the Division may place the juvenile in a setting other than a youth development center.

(c) The juvenile and the juvenile's parent, guardian, or custodian may request a review by the court of the Division's decision to extend the juvenile's commitment beyond the juvenile's eighteenth birthday or maximum commitment period, in which case the court shall conduct a review hearing. The court may modify the Division's decision and the juvenile's maximum commitment period. If the juvenile or the juvenile's parent, guardian, or custodian does not request a review of the Division's decision, the Division's decision

shall become the juvenile's new maximum commitment period. (1998-202, s. 6; 1998-217, s. 57(1); 2000-137, s. 3; 2001-95, s. 5; 2011-145, s. 19.1(l).)

**§ 7B-2515. (Effective December 1, 2019) Notification of extended commitment; plan of treatment.**

(a) In determining whether a juvenile who was committed to the Division for an offense that was committed prior to the juvenile reaching the age of 16 years should be released before the juvenile's 18th birthday, the Division shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Division does not intend to release the juvenile prior to the juvenile's eighteenth birthday, or if the Division determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2513(a4), the Division shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Division, the basis for extending the commitment period, and the plan for future care or treatment.

(a1) In determining whether a juvenile who was committed to the Division for an offense that was committed while the juvenile was at least 16 years of age but less than 17 years of age should be released before the juvenile's nineteenth birthday, the Division shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Division does not intend to release the juvenile prior to the juvenile's nineteenth birthday, or if the Division determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2513(a4), the Division shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing, at least 30 days in advance of the juvenile's nineteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Division, the basis for extending the commitment period, and the plan for future care or treatment.

(a2) In determining whether a juvenile who was committed to the Division for an offense that was committed while the juvenile was at least 17 years of age but less than 18 years of age should be released before the juvenile's twentieth birthday, the Division shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Division does not intend to release the juvenile prior to the juvenile's twentieth birthday, or if the Division determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2513(a4), the Division shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing, at least 30 days in advance of the juvenile's twentieth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Division, the basis for extending the commitment period, and the plan for future care or treatment.

(b) The Division shall modify the plan of care or treatment developed pursuant to G.S. 7B-2513(f) to specify (i) the specific goals and outcomes that require additional time

for care or treatment of the juvenile; (ii) the specific course of treatment or care that will be implemented to achieve the established goals and outcomes; and (iii) the efforts that will be taken to assist the juvenile's family in creating an environment that will increase the likelihood that the efforts to treat and rehabilitate the juvenile will be successful upon release. If appropriate, the Division may place the juvenile in a setting other than a youth development center.

(c) The juvenile and the juvenile's parent, guardian, or custodian may request a review by the court of the Division's decision to extend the juvenile's commitment pursuant to this section, in which case the court shall conduct a review hearing. The court may modify the Division's decision and the juvenile's maximum commitment period. If the juvenile or the juvenile's parent, guardian, or custodian does not request a review of the Division's decision, the Division's decision shall become the juvenile's new maximum commitment period. (1998-202, s. 6; 1998-217, s. 57(1); 2000-137, s. 3; 2001-95, s. 5; 2011-145, s. 19.1(l); 2017-57, s. 16D.4(j).)

#### **§ 7B-2516. Revocation of post-release supervision.**

(a) On motion of the juvenile court counselor providing post-release supervision or motion of the juvenile, or on the court's own motion, and after notice, the court may hold a hearing to review the progress of any juvenile on post-release supervision at any time during the period of post-release supervision. With respect to any hearing involving allegations that the juvenile has violated the terms of post-release supervision, the juvenile:

- (1) Shall have reasonable notice in writing of the nature and content of the allegations in the motion, including notice that the purpose of the hearing is to determine whether the juvenile has violated the terms of post-release supervision to the extent that post-release supervision should be revoked;
- (2) Shall be represented by an attorney at the hearing;
- (3) Shall have the right to confront and cross-examine witnesses; and
- (4) May admit, deny, or explain the violation alleged and may present proof, including affidavits or other evidence, in support of the juvenile's contentions. A record of the proceeding shall be made and preserved in the juvenile's record.

(b) If the court determines by the greater weight of the evidence that the juvenile has violated the terms of post-release supervision, the court may revoke the post-release supervision or make any other disposition authorized by this Subchapter.

(c) If the court revokes post-release supervision, the juvenile shall be returned to the Division for placement in a youth development center for an indefinite term of at least 90 days, provided, however, that no juvenile shall remain committed to the Division for placement in a youth development center past:

- (1) The juvenile's twenty-first birthday if the juvenile has been committed to the Division for an offense that would be first-degree murder pursuant to G.S. 14-17, first-degree forcible rape pursuant to G.S. 14-27.21, first-degree statutory rape pursuant to G.S. 14-27.24, first-degree forcible

sexual offense pursuant to G.S. 14-27.26, or first-degree statutory sexual offense pursuant to G.S. 14-27.29 if committed by an adult.

- (2) The juvenile's nineteenth birthday if the juvenile has been committed to the Division for an offense that would be a Class B1, B2, C, D, or E felony if committed by an adult, other than an offense set forth in G.S. 7B-1602(a).
- (3) The juvenile's eighteenth birthday if the juvenile has been committed to the Division for an offense other than an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult. (1979, c. 815, s. 1; 1998-202, s. 6; 2000-137, s.3; 2001-95, s. 5; 2001-490, s. 2.29; 2011-145, s. 19.1(l); 2015-181, s. 29.)

**§ 7B-2517. Transfer authority of Governor.**

The Governor may order transfer of any person less than 18 years of age from any jail or penal facility of the State to one of the residential facilities operated by the Division in appropriate circumstances, provided the Governor shall consult with the Division concerning the feasibility of the transfer in terms of available space, staff, and suitability of program.

When an inmate, committed to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, is transferred by the Governor to a residential program operated by the Division, the Division may release the juvenile based on the needs of the juvenile and the best interests of the State. Transfer shall not divest the probation or parole officer of the officer's responsibility to supervise the inmate on release. (1979, c. 815, s. 1; 1997-443, s. 11A.118(a); 1998-202, s. 6; 2000-137, s. 3; 2011-145, ss. 19.1(h), (l); 2017-186, s. 2(l).)